IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21797 of 2004

Between:

1. G. Raja sundera babu, S/o. G. Padma Rao,

Occ:Teacher and Social Worker,

Founder of Indian Dalith Women Association, (IDWA),

R/o. H.No. 26-36-74, 3rd Lane,
Ankammanagar, Guntur-4.
2 Parumelli Srinivasa Rao,
R/o. Ambedkar IDWA Mahanagar Colony, Adavi

Takkepllapadu Village,
Guntur, Guntur District.
3 Smt. Bethapudi Bharathi,
R/o. Ambedkar IDWA Mahanagar Colony, Adavi

Takkepllapadu Village, Guntur, Guntur District.
4 Smt. Sabavathi Parvathi,
R/o. Ambedkar IDWA Mahanagar Colony, Adavi

Takkepllapadu Village, Guntur, Guntur District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, Rep. by its Principal

Secretary, Department of Home, Secretariat, Hyderabad.
2 The Principal Secretary to Government, Government of

Andhra Pradesh, Department of Social Welfare, Secretariat,

Hyderabad.

3 The Commissioner of Social Welfare/ Nodal Officer on

Atrocities, Government of Andhra Pradesh, Telugu

Samkshema Bhavan, Masab Tank, Hyderabad.
4 The District Collector, Guntur, Guntur District.
5 The Superintendent of Police, Guntur, Guntur District.
6 The Deputy Superintendent of Police, Guntur, Guntur

District.
7 The Revenue Divisional Officer, Guntur, Guntur District.
8 The Inspector of Police, Guntur Rural Police Station, Guntur

District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate Writ order or direction particularly one in the nature of Writ of Mandamus directing the respondent Nos.4 and 5 to consider for issue of notification under Sub-Section 1 & 3 of Section 17 of SCs & STs (Prevention of Atrocities) Act, 1989 declaring the Ambedkar IDWA Mahanagar Colony of the Thakkellapdu Village Guntur Rural Mandal, Guntur District to be an area PRONE TO ATROCITIES and take necessary action to prevent atrocities and restore the felling of security among the members of scheduled caste and scheduled tribes who are the residents of the above colony pursuant to the Memo.No.25956/PS & C/A2/04-1, dt. 22-09-2004 issued by Home (Police budget) Department, Government of Andhra Pradesh.

Counsel for the Petitioners: MR.G.CHANDRAIAH

Counsel for the Respondents: GP FOR HOME

The Court at the admission stage made the following :

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ORDER:

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The petitioners seek an appropriate Writ or direction to respondents 4 and 5 to consider the feasibility to issuance of a notification under sub-Sections 1 and 3 of Section 17 of/ S.C. & S.T.(Prevention of Atrocities) Act (for short 'the Act'), declaring Ambedkar IDWA Mahanagar Colony of Adavi Takkellapadu Village, Guntur (Rural) Mandal and District as an "AREA PRONE TO ATROCITIES" and to take necessary

steps.

The first petitioner G.Raja Sundera Babu claims to be the founder of Indian Dalith Women Association (for short 'the Association'). He claims that initially representation was made to the District Collector, 4th respondent, for allotting the land of Ac.13.00, for developing the same into a colony for Dalith women. He alleges that the 4th respondent acceded to such a measure and thereafter, the colony was established by him on 30.10.2003. Petitioners 2 to 4 are said to be the members of the Association. In the affidavit filed in support of the writ petition, reference is made to various provisions of the Constitution of India, National Commission for Women Act, 1990, A.P.State Commission for Women Act, 1996 etc.

The petitioners contend that on 01.08.2004 and 16.08.2004, 'caste Hindus' have attacked the residents of the colony with deadly weapons, particularly with a view to do away with the life of petitioners 1 and 2. Crime No.233 of 2004 is said to have been registered under Sections 323,506 read with 34 I.P.C. and Section 3(1)(x) of the Act, in relation to the incident of 01.08.2004, and Crime No.246 of 2004 is said to have been registered under Sections 147,148,324 and 506 read with Section 149 I.P.C., as regards the incident of 16.08.2004. The petitioners contend that in view of these instances, the area be declared as "PRONE TO ATROCITIES" within Section 17 of the Act.

Learned counsel for the petitioners submits that the Act indicates several measures for protection of Scheduled Castes and Scheduled Tribes and Section 17 of the Act is one such measure. He states that issuance of a notification under Section 17 of the Act would provide ample protection to the residents of the colony.

Learned Government Pleader for Home, on instructions, submits that the first petitioner is inciting communal and caste hatred in the area and in fact there is nothing on record to disclose that any allotments were made or that pattas were granted, for bringing about the colony. He submits that crimes registered in relation to the incidents referred to above are under investigation and unless the truth or otherwise of the same is established in a Court of law, acceding to the request of the petitioners would amount to holding the persons shown as accused therein, as guilty. He takes exception to the nature of the complaint, wherein the petitioners sought for eviction of about 13 persons only on the basis of caste.

Parliament enacted the Act with a view to provide security to the persons belonging to Scheduled Castes and Scheduled Tribes. Special procedure was prescribed and stringent measures were indicated for violation of the rights of the persons belonging to the said categories. It is true that the implementation of the provisions of the Act has gone a very long way, in containing the atrocities against the Daliths. However, instances are not lacking, where the provisions of the Act are grossly misused by persons other than the genuine victims, to advance their political or personal causes. It is too difficult to generalize the issue either way. Misuse of the provisions of law is not something uncommon. However, because of the stringent measures provided for under the Act, the impact felt by the victims of misuse of the process of the Act is substantial.

The first petitioner claims to be a teacher. It appears somewhat abnormal that a man has founded an organization for women. For the limited purpose of this writ petition, it can be proceeded on the basis that he acted in a broad-minded manner. A perusal of the affidavit filed in support of the writ petition and the material papers enclosed to it, discloses that except making some self-serving statements, the petitioner has not placed before this Court any order, whereunder the said Ac.13.00 of Government land has been allotted to any organisation or individuals. Even according to the assertion of the first petitioner, he is instrumental in bringing about the colony. The usual and routine endorsements made by various officers, on the representations filed for extending water or electricity facilities are treated and cited, as though they are specific orders sanctioning the same.

A perusal of F.I.R.No.223 of 2004 discloses that the complaint was submitted by the second petitioner. He states that while he was taking tea at a Hotel, several persons, named therein, attacked him and abused him in the name of caste. The first petitioner is the complainant in F.I.R.No.246 of 2004. He stated that he is a teacher in Mandal Parishad School of Reddipalem Village and he established a colony with about 400 plots in Ac.13.00 of Government land. According to him, about 200 plots became vacant, since the inmates of the huts vacated the same during cyclone are living in the towns. According to him, he declared on 16.108.2004 that he would allot the plots according to G.O.Ms.No.90, Social Welfare (LA-1) Department, dated 24.09.2001. It is stated that some of the persons, who gathered there, questioned as to how persons, who are already having houses in town can be allotted plots. The first petitioner is said to have commented that selfish persons, who are lending

amounts at exorbitant rates of interest, cannot question his *bona fides*. There upon, the persons of higher castes are said to have attacked him, and his car is said to have been damaged. He alleged that his cell phone was lost. It is on the basis of these two complaints and few other instances that followed, that the petitioners want the extreme measure of declaring an area as 'PRONE TO ATROCITIES', under Section 17 of the Act.

Though the Government, at various levels, and through genuine social organizations, has been endeavouring to eradicate the shameful practice and menace of untouchability, there are some agencies and individuals, who do not spare any measures to keep the same alive, to advance their personal interests. After going through the record and after hearing the arguments at length, this Court is of the view that petitioners 1 and 2 have grossly misused the provisions of the Act for their individual benefit. They have used many innocent people as pawns in their game. First of all, it appears odd that an organization for SC and ST Women, was founded by a male teacher, working in a Government school, and maintaining a car, cell phone etc. The tone and tenor of his complaint and representations disclose that he treated himself as an authority to identify the land, as well as the beneficiaries, and to decide the caste composition of the alleged colony.

To a large extent, the growth of the petitioners 1 and 2 to such levels and taking the society for a ride, is attributable to the indifference or lethargy on the part of the Government officials. Petitioners 1 and 2 have used caste and gender, that too not of their own, as a best weapon not only to galvanise themselves, but also to attack those who came in their way. It is surprising that a teacher working in a Government school was permitted to act in such an irresponsible and objectionable way and unless such activities are curbed, the first petitioner may not only spread further venom in the society but also may become a source of emulation for other indiscriminate and irresponsible persons.

A perusal of the representation dated 30.08.2004, said to have been made by him, discloses that he not only wants that the measures under Section 17 of the Act be taken, but also the semblance of ethnic cleansing, be undertaken. To say the least, the representation is not only motivated and irresponsible, but also runs contrary to the very object underlying the Act. While the effort by the Government and other

agencies has been to ensure that the people belonging to Scheduled Castes and Scheduled Tribes are made to mingle with other sections of the society, duly protecting their lives and rights, the first petitioner wants a segregation once for all, obviously because he wants to grow from strength to strength by using the caste as well as the gender.

Hence, this Court does not find any basis for claim of the petitioners. The writ petition is accordingly dismissed and the respondents 3 to 8 are directed to ensure that the process of identification of any Government land for grant of house sites and identification of the beneficiaries in respect of the land at Adavi Takkellapadi Village is undertaken by the Government Agencies themselves and that no intermediaries such as the petitioners interfere in the matter. They are also directed to take necessary steps, wherever genuine complaints are received from any victims belonging to SC and ST, uninfluenced by provocative and outrageous allegations made by the petitioners 1 and 2. There shall be no order as to costs.

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L.NARASIMHAREDDY, J.

Date:

Jsu

Note: L.R.Copy to be marked

(B/o)

Jsu

To

1. One fair copy to the Hon'ble Sri Justice

L.Narasimha Reddy (For his Lordships kind perusal)

2. The Principal Secretary, Government of Andhra

Pradesh, Department of Home, Secretariat, Hyderabad.

3 The Principal Secretary to Government, Government of

Andhra Pradesh, Department of Social Welfare,

Secretariat, Hyderabad.

4. The Commissioner of Social Welfare/ Nodal Officer on

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8 The Revenue Divisional Officer, Guntur, Guntur District.

9 The Inspector of Police, Guntur Rural Police Station,

Guntur District.

10. 2 CCs to the Government Pleader for Home, High Court

Buildings, Hyderabad. (O.U.T)

11. 8 L.R. copies.

12. The Under Secretary, Union of India, Ministry of law, Justice and Company Affairs, New Delhi.

13. The Secretary, A.P. Advocates Association Library,

High Court Buildings, Hyderabad.

14. Two CD copies.